

**DOMESTIC VIOLENCE
AND CHILD ABUSE/NEGLECT
SCREENING FOR DOMESTIC
RELATIONS MEDIATION**

**ABBREVIATED DOMESTIC VIOLENCE
SCREENING QUESTIONNAIRES**

*Provided by:
Office of Dispute Resolution
State Court Administrative Office
Michigan Supreme Court*

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Purpose and Use of Abbreviated Domestic Violence Screening Questionnaires

To promote safety for litigants, their children, and mediators, the complete, unabbreviated Domestic Violence Screening Questionnaire (developed in 2001) should be used in every possible instance of screening for domestic violence*. All mediators and Friend of the Court and Community Dispute Resolution Program center staff conducting case intake should be trained on and be familiar with the complete Domestic Violence Screening Protocol document, including the complete Questionnaire.

Recognizing that special circumstances may exist at Friend of the Court and Community Dispute Resolution Program (CDRP) offices in which time constraints make the use of the complete Questionnaire difficult, two abbreviated versions were created in 2005 for use in the following limited situations **only**.

Abbreviated Questionnaire 1 is for use only when limited time is available in advance of meeting with the parties, but parties are not yet together at the mediation site. This Questionnaire contemplates the circumstance of CDRP centers or Friend of the Court offices having insufficient time to use the complete protocol in advance of parties appearing at the center or court office but where some limited time is available for screening.

Abbreviated Questionnaire 2 is for use only when parties are present at court and have proceeded through a security check, prior intake was not conducted, and mediation is to take place immediately. This Questionnaire contemplates the circumstance where parties have been ordered by the judge to attempt mediation at a location within the court, and the only opportunity for screening is literally “in the hall.”

SAFETY NOTE: In using the abbreviated questionnaires, it is absolutely essential that court records have been checked for:

1. Personal Protection Orders or similar civil protection orders issued in other states;
2. “No-contact” orders issued in criminal cases (e.g., pretrial release orders, probation or parole orders); and
3. Pending child abuse and neglect cases prior to bringing the parties together.

Neither abbreviated questionnaire is intended to replace the use of the complete Questionnaire when time and circumstances permit its use.

* Domestic violence is a pattern of controlling behaviors, some of which are criminal, that includes but is not limited to physical assaults, sexual assaults, emotional abuse, isolation, economic coercion, threats, stalking, and intimidation. These behaviors are used by the batterer in an effort to control the intimate partner. The behavior may be directed at others with the effect of controlling the intimate partner.

In the event that a party's response to a question does elicit concern over the presence of domestic violence, court and CDRP center staff and mediators must be ready to expand upon the party's response by referencing back to the complete Questionnaire document. In assessing the level of potential danger, the answers in sections 2, 3, 4, 6 and 7 of the complete Questionnaire are particularly helpful. Mediators using an abbreviated Questionnaire should also be alert during the mediation process for signs that a party is in anger or otherwise has a compromised ability to negotiate, and be prepared to safely terminate the mediation if domestic violence concerns arise during the mediation session.

Following the Questionnaires is guidance for mediators in determining whether mediation should take place, how to safely terminate a mediation once begun, and safety planning considerations.

Abbreviated Domestic Violence Screening Questionnaire 1

This Questionnaire is for use only by Friend of the Court and Community Dispute Resolution Program center staff and mediators when time and circumstances do not permit use of the complete screening Questionnaire in advance of meeting with the parties, but where parties are not yet together at the mediation site.

- ☐ 1. Is there anyone else in the room with you? (Assumes a telephone contact.) Can you speak freely?

- ☐ 2. What types of concerns would you have about sitting in the same room with [insert name] or mediating with [insert name]?

If concerns are noted, ask the following questions:

- ☐ a. Is there anything we could do to address your concerns?

- ☐ b. If your attorney was present with you during the mediation sessions, would you still have these concerns?

- ☐ c. If you and [insert name] were in separate rooms during the mediation sessions, would you still have these concerns?

- ☐ 3. Has there ever been any physical confrontations or threats between you and [insert name]? If so, what happened?

- ☐ 4. Do you ever feel afraid of [insert name]? Tell me about the time you felt most afraid. What makes you afraid? Has [insert name] ever felt afraid of you? What makes him/her afraid?

- ☐ 5. Has [insert name] ever caused you to feel threatened or harassed by following you, interfering with your work or education, making repeated phone calls to you, sending you many unwanted letters, emails, faxes or gifts? If so, what happened?

- ☐ 6. Has there ever been an order that was meant to limit contact between the two of you, for example, a PPO, a no-contact order as a condition of bail, or other such order?

- ☐ 7. If so, have either of you ever violated any of these orders? Has a court ever found that either of you have violated any of these orders?

- ☐ 8. Are you afraid that [insert name] will harm you during the mediation or after you leave because of what you said during mediation? Please describe.

- ☐ 9. Is there an open abuse or neglect case involving your children? If so, please tell me about it.

- ☐ 10. Do you have any concerns about the safety of the children? Please tell me your concerns.

- ☐ 11. When you and [insert name] fight and/or are angry with each other, what happens?

- ☐ 12. Do you think you will be able to speak up for yourself in mediation?

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Abbreviated Domestic Violence Screening Questionnaire 2

This Questionnaire is for use only by Friend of the Court and Community Dispute Resolution Program center staff and mediators when mediation is conducted at the court, parties have proceeded through security, a check for Personal Protection Orders and child abuse and neglect cases has been completed, and time and circumstances do not permit use of the complete screening Questionnaire.

- ☐ 1. Do you have any concerns about sitting in the same room with [insert name] or mediating with [insert name]?

If yes, ask the following questions:

- ☐ a. What are your concerns?

- ☐ b. If your attorney was present with you during the mediation sessions, would you still have these concerns?

- ☐ c. If you and [insert name] were in separate rooms during the mediation sessions, would you still have these concerns?

- ☐ 2. Have there ever been any physical confrontations or threats between you and [insert name]? If so, what happened?

- ☐ 3. Has there ever been an order that was meant to limit contact between the two of you, for example a PPO, a no-contact order as a condition of bail, or other such orders? If so, please describe.

- ☐ 4. Do you ever feel afraid of [insert name]? What makes you afraid? Has [insert name] ever felt afraid of you? What makes him/her afraid?

- ☐ 5. Are you afraid that [insert name] will harm you during the mediation or after you leave because of what you say in mediation? If so, please describe.

- ☐ 6. Can you speak up for yourself in mediation?

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Decision Not to Mediate

1. A Party is in Immediate Danger

If a party is in immediate danger, the mediator should advise the party that mediation is not appropriate. There are no circumstances under which mediation should proceed. Go to Safety Planning (page 6) and then to Safe Termination of Mediation (page 4).

To the Abused Party:

“Since you are in immediate danger, let’s get you [and your children] to a safe place. I will not be mediating your case. Let’s get a Safety Plan in place.” *See Safety Planning (page 6). See Safe Termination of Mediation (page 4).*

To the Abusive Party:

See Safe Termination of Mediation (page 4).

2. No Apparent Immediate Danger, but the Abused Party Discloses Violence by or Fear of the Other Party

If violence or fear of the other party is otherwise identified, the mediator should advise the parties that mediation is not appropriate. The abusive party’s willingness to proceed with mediation is irrelevant.

Advise Against Mediation:

“I do not think it is advisable for you to participate in mediation.” *See Safe Termination of Mediation (page 4).*

- ☐ 1. If the abused party concurs with the advice not to mediate, there are no circumstances under which mediation should proceed.
- ☐ 2. If the abused party disagrees with the advice against mediation and wants to mediate, then mediation should proceed only if ALL of the following apply:
 - ☐ a) The situation is not dangerous for the abused party or the mediator. In assessing the level of potential danger, the answers to the questions in sections 2, 3, 4, 6 and 7 of the complete Questionnaire are particularly helpful.
 - ☐ b) The mediation is conducted by a skilled mediator knowledgeable about domestic violence.
 - ☐ c) The attorney for the abused party or an advocate for the abused party (such as an advocate from the local domestic violence program or a friend or family member of the abused party) will be present during the mediation.
 - ☐ d) The mediation is conducted within a specialized process under specific conditions to address concerns for safety and ability to make decisions without coercion or fear. *See Specialized Process for Mediating When Domestic Violence/Control Exists (page 5).*
 - ☐ e) Both parties agree to this process and these specific conditions.

- ☐ f) The mediator assesses that the parties have the ability to negotiate voluntarily, fairly, safely and in good faith. *See Determining Ability to Negotiate: Existence of Control, Coercion or Intimidation (page 2).*

Determining Ability to Negotiate: Existence of Control, Coercion or Intimidation

The following indicate that a party may not have the ability to negotiate. The mediator must determine whether the presence of an attorney or advocate, and/or the adherence to specialized mediation conditions will provide the party with the ability to negotiate. If the mediator assesses that one or both parties do not have the ability to negotiate (even with an attorney or advocate present or under other specialized conditions) the mediation should not go forward despite the abused party's wishes. *See Mediator Standards of Conduct, Standard 2.*

- Party indicates that most decisions were made by the other party, or that s/he has serious concerns about how decisions will be made during mediation.
- Party has not been able in the past to speak her/his mind or express her/his point of view.
- Party indicates that she/he backs down if there has been a disagreement.
- Party has concerns about sitting in the same room during mediation.
- Party has been denied access to food or money, or has been prevented from contacting friends, family, or children.
- Either party indicates that there is a history of non-compliance with court orders by either party.
- Party seems unable to articulate her/his point of view to mediator.
- There is a history of substance abuse or mental illness.

If the mediator determines that mediation should not proceed, see *Safe Termination of Mediation* (page 4).

1. Non-Violent, but Abusive/Controlling

If in screening, abusive and controlling dynamics appear central to one party's relationship with the other, the mediator must determine whether either party lacks the ability to negotiate under any circumstances, or whether mediation could go forward under specific conditions with a skilled mediator. Mediation should proceed only if ALL of the following apply:

- ☐ 1. If the situation is not dangerous for the abused party or the mediator. In assessing the level of potential danger, the answers to the questions in sections 2, 3, 4, 6 and 7 of the complete Questionnaire are particularly helpful.
- ☐ 2. The mediation is conducted by a skilled mediator knowledgeable about domestic violence.
- ☐ 3. The mediator assesses that the parties have the ability to negotiate voluntarily, fairly, safely, and in good faith, with or without an attorney or advocate present for the abused party, or with or without specific conditions to address concerns for safety and ability to make decisions without coercion or fear. *See Determining Ability to Negotiate: Existence of Control, Coercion, or Intimidation (page 2).*
- ☐ 4. If, to ensure the ability to negotiate, the abused party requires the presence of an attorney or advocate during mediation, or a specialized process to which both parties agree, the mediation must be conducted with those accommodations. *See Specialized Process for Mediating When Domestic Violence/Control Exist (page 5).*

- ☐ 5. The abused party wants to mediate.

If the mediator determines that mediation should not proceed, see *Safe Termination of Mediation* (page 4).

2. Non-Violent and Non-Abusive and Controlling, but Either Party Otherwise Lacks Capacity to Mediate

Regardless of the existence of domestic violence or child abuse, if screening reveals any of the following, the mediator must determine whether either party lacks the ability to negotiate under any circumstances, or whether mediation could go forward under specific conditions with a skilled mediator.

- There is a history of substance abuse or mental illness that is not presently controlled.
- A party is not able to negotiate for her/himself or articulate her/his needs.
- A party is unable to reach an agreement voluntarily.

Mediation should proceed only if ALL of the following apply:

- ☐ 1. The situation is not dangerous for the parties or the mediator.
- ☐ 2. The mediation is conducted by a skilled mediator knowledgeable about the substance abuse, mental illness or other circumstances affecting a party's ability to negotiate.
- ☐ 3. The mediation is conducted by a skilled mediator knowledgeable about the substance abuse, mental illness or other circumstances affecting a party's ability to negotiate.
- ☐ 4. The mediation is conducted by a skilled mediator knowledgeable about the substance abuse, mental illness or other circumstances affecting a party's ability to negotiate.
- ☐ 5. The parties want to mediate.

Safe Termination of Mediation

Anytime during the course of mediation, if either party decides to withdraw, or the mediator finds that mediation is not safe because of domestic violence or child abuse, the mediation should be terminated in the following manner.

1. If domestic violence or child abuse is revealed for the first time after mediation has commenced, the mediator shall interrupt the proceeding and conduct a screening of each party separately to determine whether mediation is appropriate and whether the party who has been subject to the abuse understands the potential impact of abuse on the party's ability to participate in mediation fully and fairly. If the party subject to the abuse and the mediator agree that neither domestic violence nor child abuse is an inhibiting factor, the mediation shall proceed. The mediator shall discuss and plan safety precautions with the abused party. If either the abused party or the mediator determines that the mediation is inappropriate, mediation should be terminated.
2. Consult privately with the abused party to determine whether safety arrangements are necessary. If possible, make arrangements for the parties to leave separately, with the abused party leaving first and allowing reasonable time for departure. Consider whether to alert law enforcement or other security of the potential for violence and arrange for escort of the abused party to transportation. Do not reveal the destination or means of transportation of the abused party to the other party.
3. Without endangering the abused party, provide the abused party with information and referrals for assistance, including safety planning. Elicit how the abuser is likely to respond to mediation being terminated.
4. If you learn of a threat of imminent danger of physical harm to any person, take appropriate safety measures.
5. On the form that goes to the court check the box that says not appropriate for mediation. Do not provide any explanation.
6. There are two positions to consider with regard to advising the parties about the reasons for termination of mediation.
 - Some domestic violence victim advocates and professionals who work with batterers in batterer intervention programs believe that, due to safety concerns, the mediator should NOT advise the parties that the reason for termination is domestic violence or child abuse, regardless of whether the victim or the abuser discloses the violence. Other valid reasons for termination that could be provided to the parties include: mediation policies and procedures, parties too far apart in positions or interests, inability to negotiate, unwillingness to compromise, substance abuse or mental illness (if known to both parties).
 - Some mediators believe that if the abuse is disclosed by the abuser or by both parties, it is appropriate to advise the parties that the reason for termination is domestic violence. If a mediator chooses this approach, the mediator must be careful to provide each party with the same information regarding the reasons for termination and place responsibility on the abuser, without violating confidentiality. If the violence is disclosed only by the victim, the mediator should NOT advise the parties that the reason for termination is domestic violence.

Suggested Language: Termination of Mediation After Screening

To the Abused and Abusive Party

“I have decided not to mediate this case. Many cases are not appropriate for mediation. It is my experience that with situations like yours, mediation does not work. This screening process fulfills the requirement for court ordered mediation. It is not a “failure” to terminate mediation and there are no legal repercussions for doing so. I would suggest that you review this case with your attorney or seek legal advice.

Your options may include negotiation between your attorneys, referral to Friend of the Court for investigation and recommendation and/or motion to the court for a decision. If your dispute involves custody, parenting time, or support and you are not represented by an attorney you may contact the Friend of the Court and ask them to provide you with the forms and instructions necessary to proceed.”

Suggested Language: Termination after Mediation has Commenced

“After observing the issues between you and your interactions with each other, I know from my experience that it would be very difficult for you to reach agreements. So rather than taking up your time and resources, I am terminating this mediation. It is not a “failure” to terminate mediation and there are no legal repercussions for doing so. I would suggest that you review this case with your attorney or seek legal advice.

Your options may include negotiation between your attorneys, referral to Friend of the Court for investigation and recommendation and/or motion to the court for a decision. If your dispute involves custody, parenting time, or support and you are not represented by an attorney you may contact the Friend of the Court and ask them to provide you with the forms and instructions necessary to proceed.

Specialized Process for Mediating When Domestic Violence/Control Exists

The following are suggestions for specialized conditions that may accommodate safety concerns, and may provide a party with the ability to negotiate and make decisions without coercion or fear.

- Take all discussions of fear and safety seriously.
- Require the presence of an attorney or advocate for the abused or vulnerable party during mediation.
- Talk with the abused party about what safety precautions she/he would like to see in place.
- Mediate the case separately with each party. Do not schedule sessions with the parties back to back.

- If not mediating separately, suggest that the abused party arrive 10 minutes after the abuser and leave 10 minutes before the abuser. Have separate waiting areas for the parties and do not leave the parties alone together.
- Allow an advocate, friend or family member of the abused party to accompany the abused party to the mediation sessions and wait in the waiting room.
- Check with the abused party between sessions to assess safety and ability to negotiate.
- Continually reevaluate the safety of the situation for the abused party and the abused party's ability to negotiate. Terminate mediation if there are concerns for the abused party's safety or if the mediator believes that the abused party cannot negotiate fairly.
- Co-mediate in order to better oversee and direct the process in difficult mediations.
- Facilitate the crafting of specific and detailed agreements to reduce the opportunity for the abuser to take advantage of ambiguities. **Mediated agreements can:**
 - Avoid non-specific provisions such as "reasonable parenting time, "parenting time as agreed by the parties," or "parenting time to be arranged later." The terms of a parenting time agreement should be stated unambiguously, with pick up and drop-off locations, times, and days of the week clearly specified.
 - Provide for supervised parenting time, with supervising third parties clearly identified.
 - Provide safe, neutral locations for parenting time, whether supervised or unsupervised.
 - Specify how the parties may communicate with each other to make arrangements for parenting time (e.g., whether the abusive party or the abusive party's attorney may telephone the abused party, whether written or electronic communications is permitted).
 - Arrange parenting time so that the parties will not meet. Drop-off and pick-up times could be different for the abused party and the abuser, so that each party will have left the drop-off site before the other arrives.
 - If the parties must meet to transfer children, require that the transfer take place in the presence of a third party and in a protected setting. Use available resources for supervised visitation and exchange of children such as programs provided by local domestic violence service providers or other local agencies.
 - Provide for short, daytime visits in a public place, and increase length only if things are going well. Place limits on overnight visits.
 - Prohibit the noncustodial party from drinking or using drugs before or during parenting time.
 - Require a bond to assure compliance with the agreement.
 - Limit the abusive party's access to firearms.
 - Permit refusal of parenting time upon violation of any condition of the agreement.
 - Permit cancellation of parenting time if the noncustodial party is more than 20 or 30 minutes late.
 - Specify how disputes between the parties will be resolved.
 - Build in automatic return dates for the court, or the parties with a mediator, to review how the agreement is working.
 - Require surrender of passport prior to exercising parenting time, or take other steps to deter abduction, if there is a risk of a party abducting or fleeing with the children.

Safety Planning

A safety plan is a tool to help victims identify ways to stay safe. Most victims of domestic violence have a variety of methods that have helped keep them safe in the past. **The mediator should take all discussions of fear and safety seriously.** If the mediator has any questions at all during the course of the discussion with the party, call the National Domestic Violence Hotline for consultation at 1-800-799-SAFE(7233). Following are several options to consider depending upon the situation:

1. Ensure that there is a safe and private area in the office where the mediator can speak to the abused party alone.
2. Offer the use of a phone so that the abused party can contact the local domestic violence program and/or the National Domestic Violence Hotline 1-800-799-SAFE(7233). Both of these organizations have trained professionals who are able to offer confidential services and should be able to help the abused party create a safety plan.

Suggested Language for Safety Planning Assistance

"I am concerned for your safety. None of this is your fault. I would like you to consider contacting some professionals to help you come up with a plan to stay safe today. Most communities have organizations that provide services to survivors of domestic violence. These services often include confidential shelter, counseling, advocacy, support groups and [counseling for your children]. The phone number to our local domestic violence program is _____. You can also call the National Domestic Violence Hotline at 1-800-799-SAFE(7233). The National Hotline can provide you with confidential advocacy and support and also refer you to the nearest domestic violence program. Please use my phone."

3. If the abused party does not want to contact the Hotline, the mediator may want to ask the party's permission to call the Hotline for consultation. The Hotline should be able to walk the mediator through some basic safety planning strategies. The mediator should assure the abused party that the Hotline is confidential and that the mediator will not disclose any personal information.

Suggested Language for Obtaining Permission to Call the Hotline:

"I am concerned for your safety and want to make sure that I am giving you correct information. Would it be o.k. with you if I called the National Domestic Violence Hotline to help me give you referrals and assistance in coming up with a plan to stay safe? I will not give them any identifying information about you."

4. The party may be able to identify friends or family that have been helpful in the past or who are able to offer a place to stay. The mediator should offer the use of her/his phone so that the party can contact friends or family, if the party wishes to do so.
5. Discuss with the party what she/he will do with any paperwork that she/he is taking home, especially if she/he still lives with the abusive party.

6. Consider what the party will do when she/he leaves the mediator's office and where she/he will go. Work with the party to ensure that she/he will be safe during the rest of the day. Ask questions like: "What is your mode of transportation and is it safe? Where is your car parked? Do you have a safe place to spend the night?"
7. Offer the use of a phone to contact the police to file a report or to request an escort, if the party wishes.

Referral and Assistance

1. If a screener for mediation or a mediator concludes that domestic violence or child abuse has occurred, the abused party shall be provided with information about and referral to a domestic violence advocacy agency for safety planning and other services. The information shall be provided only when the other party is not present. If the mediator does not know the local shelter number she or he can get the number from the National Domestic Violence Hotline at 1-800-799-SAFE (7233).
2. The mediator should provide the abused party with information and brochures about domestic violence, child abuse, and referrals for assistance. Free general domestic violence brochures are available from the National Domestic Violence Hotline by calling 1-800-799-SAFE (7233). Local domestic violence programs also should have free brochures.
3. The mediator should discuss with the party what she/he will do with any paperwork and brochures that she/he is taking home, especially if she/he still lives with the abusive party.
4. If a person is in imminent danger, the mediator should do safety planning with that person whenever possible.

Suggested Language for Referral and Assistance

"Most communities have organizations that provide services to survivors of domestic violence. These services often include confidential shelter, counseling, advocacy, support groups and [counseling for your children]. The phone number for our local domestic violence program is _____. You can also call the National Domestic Violence Hotline at 1-800-799-SAFE(7233). The National Hotline can provide you with confidential advocacy and support and also refer you to the nearest domestic violence program. Here are brochures and information for you to read over. Will taking this information home with you be dangerous?"

On-Going Screening for All Cases

On-going screening for domestic violence should take place in all cases. It is the mediator's responsibility to terminate mediation if she or he believes either of the participants is unable to mediate safely, competently, and without fear of coercion. Monitoring by the mediator is a continuous responsibility throughout the mediation process. During the course of mediation the mediator may notice abusive or controlling behaviors that were not revealed during the screening process. Behaviors that may be of concern include threatening looks or actions, one party attempting to speak for or control the other party, one party unwilling to comply with the ground rules or specialized process for mediation, or one party dominating the sessions.

If any behaviors lead you to conclude that a party may not be able to mediate safely and fairly, reconsider the *Decision Not to Mediate* (page 1). If you determine that mediation should not proceed, see *Safe Termination* (page 4).

DOMESTIC VIOLENCE AND CHILD ABUSE/NEGLECT SCREENING FOR DOMESTIC RELATIONS MEDIATION

Acknowledgments

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IS MEDITATION RIGHT FOR YOU?

What is Domestic Relations Mediation?

Mediation is a process which allows you and another party to resolve your dispute outside of the traditional court process. Unlike hearings or a trial, in mediation you and the other party work together to identify solutions to problems. The mediator, a trained neutral person, does not say who is right or wrong, and unless requested, does not provide recommendations for resolving your dispute. Mediation can be quickly arranged, and frequently saves time and money compared to the traditional court process. Because mediation promotes cooperation, the emotional costs of resolving your dispute also may be reduced. You can choose to try mediation, or a judge may order you to try mediation. Here are some more things you should know about mediation:

- 1.** Mediation is confidential. Confidentiality means that the mediator cannot disclose any information that you provide unless:
 - You and the other party agree that the information can be disclosed.
 - The mediator informs you, and you agree in writing before mediation starts, that the mediator may disclose other information such as child abuse or threats of harm.
 - You or the other party disclose child abuse or neglect, or threat of harm to another person, and the mediator has a legal responsibility to report child abuse or neglect, or threat of harm.
 - Information is necessary to resolve a dispute regarding the mediator's fee.

The mediator also is required to report to the court certain basic facts about mediation, such as the number of sessions, who attended, whether or not an agreement was reached, whether or not the fee was paid, whether the parties provided information requested by the mediator, and general information necessary for program evaluation.

- 2.** You can select your own mediator. In most cases, parties can agree who will serve as their mediator. If you and the other party cannot agree, the court will select a mediator from a roster of trained and experienced mediators.

- 3.** Reaching an agreement is voluntary. Most people who try mediation do resolve all their issues through mediation. However if you and the other party cannot agree on some issues, and you have chosen *evaluative* mediation, you can ask the mediator to provide you with recommendations for settlement. If settlement is not reached, your case continues in the court process.

What are the Benefits of Mediation?

Compared to the traditional adversarial court process, mediation may:

- be less time consuming
- be less expensive
- allow you to express all your opinions about the issues and results you want in an informal setting
- give you more control over the outcome of your dispute
- lead to fewer court proceedings after a judgment has been entered
- be less emotionally stressful
- provide a more fair outcome for both parties

Mediation is Appropriate

and works best when both parties:

- ✓ do not use fear, force, threats, violence, or intimidation to get what they want
- ✓ commit to respecting and listening to the other's opinions and interests
- ✓ feel free to openly and safely express needs and concerns

Mediation is NOT Appropriate

and does not work when the other party:

- ✓ uses fear, force, threats, violence or intimidation to get what they want
- ✓ does not respect or listen to your opinions and interests
- ✓ makes you afraid to openly express needs and concerns

If you think that mediation is not appropriate for your case for any of these reasons, it is important for you to let the court and the mediator know about these reasons, so that your case can have a fair and safe outcome.

**IF YOU THINK THAT MEDIATION IS NOT APPROPRIATE FOR YOUR CASE,
PLEASE READ THE OTHER SIDE OF THIS NOTICE.**

What if I do not want my case to go to mediation?

If your case is being considered for mediation, you are entitled to a hearing in front of a judge to decide whether mediation is appropriate for you for any of these **three** reasons:

1. You have a Personal Protection Order (PPO).

How do I tell the court that I have a Personal Protection Order?

File the enclosed "Motion to Remove Case from Mediation"* with a copy of your PPO or information about your PPO.

2. You or the other party is involved in a child abuse or neglect proceeding.

How do I tell the court that there is a child abuse/neglect case?

File the enclosed "Motion to Remove Case from Mediation"* with any information about the child abuse/neglect case.

3. You file a "Motion to Remove Case from Mediation" because you believe that mediation will not be fair or safe for you.

What are the reasons that I can ask the court to remove my case from mediation?

A court might not order you into mediation if:

1. There are good reasons, such as: the other party has been arrested for or convicted of domestic violence; there is a pending criminal domestic violence case; the other party has a past history of violating court orders; the other party has threatened to harm or kill you or has harmed you; the other party has threatened to harm or kill the children; there is history of depression or attempted suicide; past attempts at mediation have failed.
2. There is reason to believe that your health or safety would be endangered by mediation.
3. You are not able to negotiate for yourself and will not have a lawyer with you during mediation.
4. There has been domestic violence and you will not have a lawyer with you during mediation.
5. The case involves child abuse or neglect.

How do I file a "Motion to Remove Case from Mediation?"

You or your attorney must

- ☐ 1. Within 14 days of receiving an order for mediation file a written "motion to remove case from mediation" and a notice of hearing to remove the case from mediation. (See motion and notice in the enclosed motion packet.*)
- ☐ 2. Within 14 days of receiving an order for mediation serve a copy of your motion and notice to the other party's attorney, or to the other party if the other party is not represented by an attorney.
- ☐ 3. You may be entitled to have the filing fees waived if you cannot afford the motion fees. Ask the court mediation clerk for SCAO Form MC 20, *Affidavit and Order for Suspension of Fees/Costs*.

***If the motion or motion packet is not enclosed, contact the court's Mediation Clerk and ask for a copy.**

At this hearing, the judge will decide if you should try mediation. If you believe that you should not have to try mediation for reasons like those mentioned above, fill out and file the motion to remove case from mediation.

What is domestic violence?

Domestic violence is a pattern of behavior. It is one person scaring another into doing what the abuser wants. Abusers use physical and sexual violence, threats, money, emotional and psychological abuse to control their spouse or intimate partners and get their way. Many people don't think of themselves as victims of domestic violence. However, if you answer yes to any of the following, you may want to consider filing a motion to remove your case from mediation.

- ☐ Have you ever been physically hurt or threatened by the other party?
- ☐ Have you been hit, kicked, slapped, pushed or shoved by the other party?
- ☐ Has the other party threatened you with a weapon?
- ☐ Have you ever been forced or pressured to have sex when you did not want to?
- ☐ Has the other party ever physically hurt or threatened to hurt your children?
- ☐ Has the other party ever threatened to kill your friends, family or pets?
- ☐ Are you afraid of the other party?

There are over 45 programs in Michigan offering confidential counseling, shelter, support groups, and safety planning to survivors of domestic violence. You can get the number for your local domestic violence program, and confidential crisis counseling and support, by calling the National Domestic Violence Hotline at:

**1-800-799-SAFE
(7233)**

Or by calling your local Domestic
Violence Program at: